Freedom From Discrimination

The Manitoba **Human Rights** Commission

Annual Report 2012

YOUR HUMAN RIGHTS IN MANITOBA

The underlying principle of the *Human Rights Code* (Manitoba) is the recognition of the individual worth and dignity of every person.

Discrimination under the *Human Rights Code (The Code)* is treating someone differently, to their disadvantage and without a valid reason or failing to take steps to accommodate special needs that are based on the characteristics covered under *The Code*. The *Human Rights Code* prohibits unreasonable discrimination in areas such as employment, housing, public services or contracts, and signs and notices.

The Code prohibits unreasonable discrimination on the following grounds, called "protected characteristics:"

- Ancestry
- Nationality or national origin
- Ethnic background or origin
- Religion or creed, or religious belief, religious association or religious activity
- Age
- Sex, including sex-determined characteristics, such as pregnancy
- Gender identity
- Sexual orientation
- Marital or family status
- Source of income
- Political belief, political association or political activity
- Physical or mental disability
- Social disadvantage

Members of other historically disadvantaged groups, not listed in this section of *The Code* may also be protected.

In determining whether discrimination has occurred, it is the effect, not the intention that counts.

Most employers, landlords or service providers that are located in Manitoba are regulated by provincial law and so are bound by Manitoba's *Human Rights Code*. Other private businesses, such as airlines, banks, and telecommunication enterprises, as well as the federal civil service and many First Nations governments and organizations, however, are regulated by federal law. Complaints against them must, therefore, be filed with the Canadian Human Rights Commission under federal human rights law.

The *Human Rights Code* overrides other provincial laws.

The cover of the Annual Report is a photograph of the Human Rights Commitment Award of Manitoba designed by Jayne Nixon.
Photograph by Sheilagh Hooper.

ATTORNEY GENERAL
MINISTER OF JUSTICE

Room 104
Legislative Building
Winnipeg, Manitoba CANADA
R3C 0V8

His Honour The Honourable Philip S. Lee, C.M., O.M.
Lieutenant-Governor of Manitoba
Room 235 Legislative Building
Winnipeg, MB R3C 0V8

May it Please Your Honour:

I have the privilege of presenting for the information of your honour the Annual Report of The Manitoba Human Rights Commission for the year 2012.

Respectfully submitted,

Honourable Andrew Swan
Minister of Justice
Attorney General

THE MANITOBA
HUMAN RIGHTS
COMMISSION

LA COMMISSION DES
DROITS DE LA PERSONNE
DU MANITOBA

The Honourable Andrew Swan
Minister of Justice and Attorney General
Legislative Building
Winnipeg, MB R3C 0V8

Sir:

We are pleased to forward to you, the Minister responsible for administration of *The Manitoba Human Rights Code*, the Annual Report of the Manitoba Human Rights Commission for the calendar year ending December 31, 2012.

Jerry M. Woods

Jerry Woods
Chairperson

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CHAIRPERSON'S MESSAGE

It was a remarkable year for the Manitoba Human Rights Commission.

During 2012, we celebrated the 25th anniversary of two events that changed the lives of many Manitobans. In the summer of 1987, 250 gay and lesbian supporters participated in the first annual Pride event. Later that year, on December 10, 1987 the *Human Rights Code (Manitoba)* officially replaced the *Human Rights Act*. Under the new *Human Rights Code*, sexual orientation was added to the list of protections from discrimination.

On May 30, 2012, at an event at the Manitoba Legislature, we honoured those individuals who, for many years, either vocally or quietly, fought for or defended the inclusion of sexual orientation as a protected ground from discrimination.

On the same day, Minister of Justice and Attorney General Andrew Swan announced amendments to the *Human Rights Code* and the inclusion of two new protected grounds. The first addition is gender identity, which would further protect transgender Manitobans. The second new ground is social disadvantage, to protect individuals who are, or are perceived to be, undereducated, underemployed, homeless or live in inadequate housing or have chronic unemployment.

The Manitoba Human Rights Commission also hosted the 2012 Canadian Association of Statutory Human Rights Agencies (CASHRA) Annual Conference. We named the conference *Are we there yet?*, not because we think we are actually where we want to be in the evolution of human rights, but rather because this is a good question to re-assess and seriously consider whether change is taking longer than it should, or even more disturbing, to ask if we have lost ground.

Over the two day conference many people from across the country reminded us of the strides made and the struggles ahead. Past issues like harassment continue to haunt us. New issues such as mental health challenge us. The future issues of social and economic rights and gender identity reveal that there is still much work to be done. It was a thought-provoking conference and I would like to acknowledge all who planned it as well as those who participated.

And finally, it is with some sadness, but also with a great deal of admiration that I say goodbye to Dianna Scarth who has been the Executive Director of the Manitoba Human Rights Commission since 1996. Dianna has not only been the leader of the Commission, but also its inspiration. Both staff and Commissioners wish her the very best in all her future endeavours.

Jerry Woods
Chairperson

> *"It is said that the evolution of human rights is a journey. The question becomes, are we getting closer to the destination? The answer is yes. We have left the concept of tolerance behind and have travelled past the idea of acceptance. Our goal is now nothing short of inclusiveness."*
>
> *Jerry Woods, CASHRA Conference, Winnipeg June, 2012*

YEAR IN REVIEW

The Manitoba Human Rights Commission is authorized to mediate and investigate complaints of discrimination, to refer matters to adjudication, to educate the public and promote human rights.

2012 Highlights

- *Amendments to the Human Rights Code took effect June 14, 2012. The most substantial changes were the addition of two protected characteristics, "gender identity" and "social disadvantage."*
- *A celebration of the 25th Anniversary of the Human Rights Code took place at the Manitoba Legislature on May 31, 2012.*
- *The Manitoba Human Rights Commission was one of 17 groups granted intervener status in the appeal of Moore v BC (Ministry of Education) and School District 44 (North Vancouver) to the Supreme Court of Canada (SCC). The Appeal, which was heard on March 22, 2012, concerned whether the School District of North Vancouver and the BC Ministry of Education discriminated against Jeffrey Moore, a severely dyslexic student by failing to provide him with meaningful access to an appropriate education. On November 9, 2012, in a unanimous decision the SCC ruled that the North Vancouver District School Board (the District) had discriminated against Jeffrey Moore.*
- *The final report of the Racialized Communities and Police Services (RCAPS) Project was written and delivered to community leaders and Winnipeg Police Chief Devon Clunis. It was discussed during a final round table discussion held at the MHRC Office. The project was initiated in 2005, after the Centennial Neighbourhood Safety Committee in Winnipeg informed the Commission about their concerns that police services were biased, based on race (Aboriginal ancestry). The final report is on the Commission's website.*
- *The Manitoba Human Rights Commission, with the members of the Canadian Association of Statutory Human Rights Agencies (CASHRA) called on all levels of government across Canada to implement the UN Declaration on the Rights of Indigenous Peoples.*
- *At the 2012 "Are we there yet?" Canadian Association of Statutory Human Rights Agencies (CASHRA) Human Rights Conference in Winnipeg, Mr. Stuart Murray, President and Chief Executive Officer of the Canadian Museum for Human Rights (CMHR), and Ms Barbara Hall, President of CASHRA, signed a Memorandum of Agreement (MOU) that will see the two organizations work jointly to fulfill their common goals of encouraging and fostering the advancement, promotion and understanding of human rights.*
- *The Commission continued its youth initiative, but in 2012 changed its focus from high school students to middle year students. Over the past twelve years the Commission has focused on young people offering rights and responsibility information through youth conferences, websites, written material and videos.*

THE COMPLAINT PROCESS

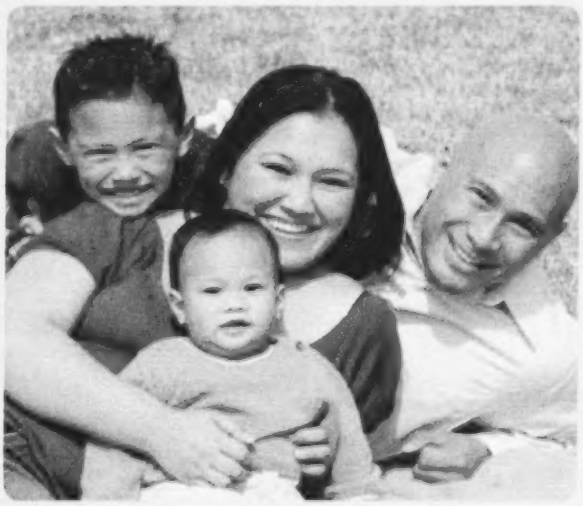
Intake
The intake staff is often the first contact the public makes with the Manitoba Human Rights Commission. The Commission has intake staff in its Winnipeg, Brandon and The Pas offices.

In 2012 over 4400 requests for information were dealt with by the intake staff. Many of these calls resulted in referrals to other agencies. Approximately 8 per cent of the contacts were matters that directly related to *The Code*, while a further 19 per cent were requests for literature or information relating to human rights. As a result of these contacts, 358 files were opened.

Pre-complaint
Before a formal complaint is filed, the intake staff may recommend pre-complaint mediation, which is a voluntary, without prejudice, process. The Commission mediators attempt to resolve an issue prior to the filing of a formal complaint of discrimination. In 2012, 26 matters were resolved successfully using this process.

Area and Ground(s): Alleged discrimination of failure to reasonably accommodate a physical disability in the provision of services

Background: A man with a physical disability who uses a wheelchair could not reach the counter to use the debit and/or credit card machine. Each time he used the machine he had to depend on others to key in his pin number. The machines were not portable and were bolted to the counter. When the man asked for a portable machine, he was told it was corporate policy to have the machines bolted to the counter. He contacted the Manitoba Human Rights Commission saying that his special needs based on physical disability were not reasonably accommodated.



Resolution: In pre-complaint resolution, the parties reached an agreement that included an apology for any inconvenience this practice caused the man and the store implemented independent accessibility to PIN pads in all of its more than twenty stores in Manitoba. Although this complaint was filed by an individual, the agreement is considered a systemic resolution since the new practice of having independent accessibility will benefit the many people who are not capable of reaching the PIN pad on the counter.

Fast Fact
In 2012, 47 per cent of the complaints filed were based on disability. Of these, 69 per cent dealt with physical disabilities and 31 per cent dealt with mental disabilities.

Mediation
If a formal complaint is filed, complainants are advised that the Commission offers mediation as an option for the parties to consider, before or during an investigation. It is important to note that during mediation at this stage of the process, no assessment or decision about the complaint is made. At times, a mediated settlement can achieve more, from the perspective of the complainant, than a public hearing. This process is often more satisfactory to the respondent as well.

Area and Ground(s): Alleged discrimination in employment based on sex, including pregnancy and circumstances related to pregnancy and the failure to reasonably accommodate special needs

Background: After working for the respondent for just over one year, the complainant

informed her manager that she was pregnant. According to the complainant, accusations of breach of contract, a refusal by the respondent to issue a training certificate and a lack of accommodation followed. She subsequently was terminated from her job. She filed a complaint with the Human Rights Commission saying that the respondent discriminated against her in her employment on the basis of sex, including pregnancy and circumstances related to pregnancy as well as a failure to reasonably accommodate her special needs.

Since the parties were interested in attempting a voluntary resolution of the matter, a formal written response to the complaint was not requested.

Resolution: During pre-investigation mediation the parties voluntarily reached an agreement which included, the respondent paying the complainant $10,000 in respect of general damages for injury to dignity, feelings or self respect. The complainant agreed to sign an all inclusive release.

Fast Fact
In 2012, 95 complaints were successfully mediated during the pre-complaint process, the pre-investigation stage or during the investigation.

Investigation

Each complaint that is not resolved in the mediation process is assigned to the seven person investigation team. During 2012 the average length of an investigation (from the date it was assigned to an investigator up to and including the date the written preliminary or investigation report was completed) was 8.65 months.

Before an investigation begins a preliminary assessment may be done to determine if the complaint, as filed, is within the jurisdiction of the Commission and/or whether the complaint or complainant has disclosed a reasonable ground to support the alleged contravention of the *Human Rights Code*. This Preliminary Assessment Report is sent to the Board of Commissioners with a recommendation.

Complaints that are investigated are done so in an impartial manner. The investigator interviews witnesses and obtains documents and information to thoroughly explore the positions of both parties. A formal report called an Investigation Assessment Report, which includes a recommendation to proceed or dismiss the complaint, is written for consideration by the Board of Commissioners.

Fast fact
In 2012, the investigation team was assigned 159 formal complaints to investigate and the team completed Preliminary Assessment Reports (20) and Investigation Assessment Reports (79) on 99 complaints.

Withdrawn or Abandoned

The team of investigators and mediators prepared 43 reports with respect to complaints that were either withdrawn or abandoned during 2012.

Dismissed

Where there is insufficient evidence to support a complaint, or no contravention of *The Code* is found, or the Board is satisfied that the complaint is frivolous or vexatious, the Board will dismiss it. Once a case has been dismissed it does not go any further.

Area and Ground(s): Alleged discrimination in employment on the basis of sex

Background: A woman and a man, who were employed as caregivers, were observed during direct supervision on how they interacted with clients. After the woman went home she was contacted by her employer's Director of Human Resources and informed that she was suspended because of abuse allegations. Her employment was subsequently terminated while the male worker's was not. She filed a complaint alleging she was discriminated against on the basis of her sex.

An investigation took place. The employer revealed that the woman was an experienced member of the staff who was training the male employee.

The investigation found insufficient evidence to demonstrate that the woman's sex was a

factor in her employer's decision to terminate her employment.

The Board of Commissioners dismissed the complaint.

Fast Fact
In 2012, 81 of the 258 closed complaints were dismissed by the Board.

Board Directed Mediation
Where the Board finds that the complaint has enough support in the evidence to proceed further and should not be dismissed, it may provide the parties with the opportunity to discuss settlement. This is referred to as Board Directed Mediation.

Fast Fact
Of all the complaints filed during 2012, 74 per cent were in the area of employment.

Area and Ground(s): Alleged discrimination in employment based on the failure to accommodate special needs (disability)

Background: A woman filed a complaint claiming that her employer discriminated against her by failing to reasonably accommodate her disability. She eventually resigned from her job. As she had a hearing impairment, she had asked for a strobe light as a visual signal for a fire alarm. She also said she was asked to carry a walkie-talkie, (in addition to two cell phones, which she used in the past) even though she explained it would be impossible for a person with a hearing impairment to use it.

Pre-investigation mediation was not successful and a full investigation took place. The investigation revealed the employer was reasonably aware of the special needs the complainant had because of her hearing impairment and that the accommodation process was severely flawed. The complaint went before the Board of Commissioners and Board Directed Mediation was ordered. If that had failed an adjudicator would have been requested for a public hearing. A settlement however, was reached.

Resolution: The woman received $6,500.00 for general damages. Her employer had to review a reasonable accommodation policy and make appropriate changes. Staff at the company also had to attend workshops offered by the Manitoba Human Rights Commission by April 1, 2013.

Fast Fact
In 2012, 31 files were referred to Board Directed Mediation and 23 cases were voluntarily resolved at this stage.

Referred to Adjudication
When the Board directs that mediation should take place, it lets the parties know that if mediation is not successful, the matter will be sent to adjudication. In 2012, 12 files were referred to adjudication.

Legal Proceedings
In 2012, 5 adjudicated decisions were issued. Two other hearings were held but those decisions have not yet been released.

There were no judicial reviews during the year.

Fast Fact
Legal proceedings and decisions can be found on the Commission's website. www.manitobahumanrights.ca.

Settled prior to adjudication
The Commission's legal counsel will make a final attempt to settle the matter before adjudication. Four files, which had been referred to adjudication, were resolved by legal counsel in 2012, before the hearing took place.

Fast Fact
The Commission continues to expand its community activities and made public presentations to almost 2,675 people.

AWARENESS OF HUMAN RIGHTS AND RESPONSIBILITIES

In February the Manitoba Human Rights Commission launched its Facebook page. It gained in popularity throughout the year featuring human rights news, historical events, videos and information about your rights in Manitoba.

Changes to the Commission's website included adding sample settlements, which provide visitors to the site with a general overview of the types of settlements that are frequently negotiated.

In February the Commission embarked on a pilot project involving human rights education for students at École River Heights School. The pilot project was designed for grades 7 to 9 students and a "Rights Rally Team" consisting of staff of the Commission arrived at the school and spent the day doing workshops.

The "Y Rights Youth Conferences," which were held in Winnipeg and Shilo in April, were also focused towards junior high students. The goal was to reach out to younger students and deliver an anti-discrimination message as they continue into their high school years.

Fast Fact
Over 285 employers, supervisors, human resource specialists and other interested people attended the Commission's seminars and workshops in 2012.

The Commission's Outreach Officer gave presentations and written materials to newcomers at the Entry Program curriculum throughout the year. Her activities during 2012 also took her to such communities as Notre Dame du Lourdes, Portage la Prairie and Selkirk providing basic information about discrimination and the *Human Rights Code*. On March 21, International Day for the Elimination of Racial Discrimination, she made presentations to both junior and high school students.

In celebration of the 25th Anniversary of the *Human Rights Code* the Commission published a Report to the Community and released it on December 10, 2012, the day the *Human Rights Code* (Manitoba) was proclaimed in 1987.

The Manitoba Human Rights Commission and its valued partners, the Manitoba Association for Rights and Liberties and the Canadian Human Rights Commission announced that Winnipeg artist Jayne Nixon was chosen to create art work symbolizing a dedication to human rights for the recipients of the 2012 Human Rights Commitment Award of Manitoba (shown on front cover).

International Human Rights Day was once again celebrated with seven Manitobans receiving Human Rights Awards.

The Annual Human Rights Commitment Award of Manitoba recognizes those who have promoted respect for human rights and fundamental freedoms and have advanced the rights of Manitobans.

The Recipients of the 2012 Human Rights Commitment Award of Manitoba are:
Jane Burpee, Education Coordinator with the Manitoba Schizophrenia Society; The Rainbow Resource Centre, a major resource and support centre serving Manitoba's Gay, Lesbian, Bi-sexual, Transgendered and Two Spirited (GLBTT) communities; and Louise Simbandumwe, Director of SEED Winnipeg's Asset Building Programs and founder of Run for Rights.

The Annual Sybil Shack Human Rights Youth Award recognizes the work of a person or group of people, 25 years old and under that has had an impact on the advancement of human rights as guaranteed in the Canadian Charter of Rights and Freedoms and human rights legislation in Manitoba.

The recipients of the Sybil Shack Human Rights Youth Award for 2012 are: Ayla and Van Hamilton of Major Pratt School, Russell Manitoba; Muuxi Adam, After School Program Coordinator at the Immigrant and Refugee Community Organization of Manitoba; and Chelsea Caldwell, a second year student at the University of Winnipeg.

REPORT FROM THE EXECUTIVE DIRECTOR

The past year saw changes to the Human Rights Commission, which included staff and *The Code*.

It has been my pleasure to serve as interim Executive Director over the past six months, after the departure of Dianna Scarth who held the position for 16 years. Dianna's management and organizational skills resulted in an easy transition for both me and the staff as we awaited our new Executive Director.

With the *Human Rights Code's* 25th Anniversary, amendments were announced, which included two new, long sought for protected characteristics: gender identity and social disadvantage.

Over the years, the Commission has noted certain trends in terms of the complaints filed. We have, for example, drawn to the attention of the public the increase in discrimination based on pregnancy. We have also noted the steady increase in the number of complaints based on mental disability. This year we are discovering another possible trend; the number of sexual harassment cases that were referred to adjudication. Ten of the twelve complaints that were referred to adjudication in 2012 included sexual harassment allegations; seven of those complaints involved small businesses, and six of them involved harassment by the owner of the business.

The obvious concern is that sexual harassment continues to take place in the workplace, keeping in mind that it has been over 23 years since the Supreme Court of Canada ruled that it is a form of sex discrimination. This 1989 ruling was the result of a Manitoba Human Rights Commission case, Janzen v. Platy Enterprises Ltd., and a seven year struggle before the case was won by both Dianna Janzen and the women of Canada.

Dianna Janzen, who is now Dianna Evangeline, spoke at the National 2012 CASHRA Human Rights Conference in Winnipeg for one of the first times since that landmark decision. Even though the ruling was victorious, it was not a pleasant journey. At times Dianna blamed herself, she became estranged from some family and friends and experienced loss after loss in various courts. She is now considered a hero and it cannot be overstated that she had a huge impact on human rights in Canada. While speaking at the conference she said she still remains concerned about sexual harassment in the workplace, and it is disappointing to see her concerns realized in the 2012 cases referred to adjudication at the Manitoba Human Rights Commission.

As the year ends, we say goodbye to Paula Hamilton, Manager of Investigation and Mediation as she moved to Manitoba Hydro, Nancy Flintoft, a Human Rights Officer and Investigator who retired after many years of dedication to her job and Maryann Flett who has moved to another province. As we approach 2013, however, we are looking forward to working with our new Executive Director who will be joining the Commission at that time.

George Sarides
Acting Executive Director

BOARD OF COMMISSIONERS

Chairperson
Jerry Woods is a proud member of the Couchiching First Nation and hosts all the Commission's youth conferences. His background in the labour movement and his expertise as a negotiator serve him well as a strong advocate for Aboriginal employment and human rights issues. He continues to work in the community as an activist and strives for equitable outcomes with a dedication to improving the quality of life for all people. Jerry's passion is golf, and his joy is his family, wife Cathy, their six children, and eleven grandchildren.

Vice-Chairperson
Yvonne Peters has a Bachelor of Arts and a Bachelor of Law from the University of Saskatchewan and a Bachelor of Social Work from the University of Regina. She practices equality rights law in Winnipeg, providing legal consultation and advice. She serves as the Vice-Chair of the Accessibility Advisory Council appointed by the Honourable Jennifer Howard, Minister Responsible for Persons

with Disabilities. Her community work includes serving as a council member of the Manitoba Bar Association, as a member of the Council of Canadians with Disabilities' Human Rights Committee and as a board member of the Winnipeg Folk Festival.

Commissioners

Robin Dwarka is the Director of Finance for Legal Aid Manitoba. She is a Certified Management Accountant (CMA) and has a Bachelor of Commerce (Honours) from the University of Manitoba. Robin is a founding member of the Manitoba Pan Handlers, a local steel band. She is actively involved with Anansi, a school for the performing arts to promote the Caribbean culture through dance, music and drama to youth in Winnipeg.

Elliot Leven is a lawyer by profession and his preferred areas of practice are labour and employment law and Aboriginal law. He is an active member of Winnipeg's gay and Jewish communities. He is the immediate past president of the Community Unemployed Help Centre, a member of various Law Society of Manitoba committees, and a member of the Canadian Association of Labour Lawyers. He has been a Manitoba Human Rights Commissioner since 2002.

Sheena Rae Reed was born and raised in Flin Flon and returned to her hometown after receiving her Arts Degree from the University of Manitoba and studying two years of law. Today she works with Child and Family Services for the Government of Manitoba. Over the last 25 years Sheena has coached girls' gymnastics and has been involved in Big Brothers/Big Sisters. She is also a Board Member of the Northern Women's Resource Centre in Flin Flon and the Vice-President of the Flin Flon Friendship Centre's Board of Directors.

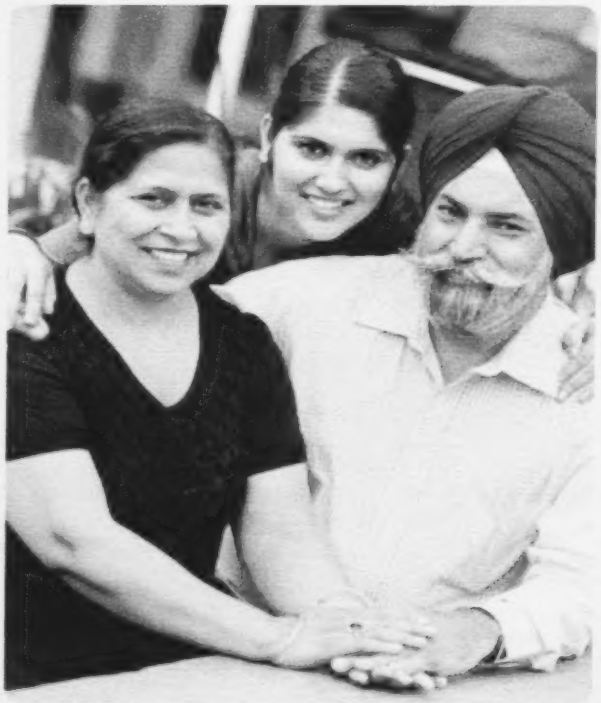
André Doumbè was born in Cameroon, Africa and studied Business Administration and is currently working as a Statistical Clerk at the Market Analysis Group, Agriculture Canada. Mr. Doumbe has over twenty years community involvement at the grassroots level. He is currently serving as the President of the African Communities of Manitoba Inc. (ACOMI), a coalition of African grassroots organizations. He is a member of the Manitoba Immigration Council and volunteers at United Way of Winnipeg.

Ajit Kaur Deol, O.M. has a BA (Honours) and a MA from the University of Toronto. She was a teacher in Winnipeg for many years. Ajit is credited with developing the Caroline McMorland School for the mentally disabled in Ontario, where she was principal. In 1985-86, she was the first woman president of a Sikh Gurudwara (temple) in North America. Ajit is a recipient of the Order of Manitoba and the Queen Elizabeth II Golden Jubilee Medal and has been on the Board of Directors of countless organizations and is currently a member of the Advisory Committee Punjab Foundation, Boards and Commissions, and a Director on the Board of the Seven Oaks School Education Scholarship Foundation.

Joan Hay has lived in Winnipeg's inner city for over twenty-five years. Joan co-authored a book on community development titled *In Their Own Voices: Building Urban Aboriginal Communities*, and is the current President of the Spence Neighbourhood Association. She is also involved with many inner city boards and committees and currently works at the Ma Mawi Wi Chi Itata Centre Inc. as a Community Helper/Emergency Services Worker and at the Native Women's Transition Centre as a Residential Support Worker. Joan is of Ojibwe/Dakota descent from Waywayseecappo First Nation in Manitoba.

Leo Aniceto is a staff lawyer for Somerset Law Office, Family Unit, Legal Aid Manitoba. Prior to this, he practiced on his own for about five years helping clients in the areas of family law, criminal law, child protection and real estate. Leo has three children. He is a member of the Filipino community and enjoys helping fellow Filipinos with their legal problems whenever he can.

Karen Banuga is a Research/Copyright Officer and Access and Privacy Coordinator for the Assiniboine Community College. She has a Bachelor of Arts Degree from Brandon University and is a member of the Islamic Community. Karen is a strong advocate of women's rights and is an active member of the Manitoba Government Employees Union and Chief Steward. She loves to travel and finds it helpful in understanding other cultures and belief systems. Karen is married with four children.



RÉSUMÉ EN FRANÇAIS DU RAPPORT ANNUEL DE 2012 DE LA COMMISSION DES DROITS DE LA PERSONNE DU MANITOBA

Le principe fondamental du *Code* des droits de la personne du Manitoba est la reconnaissance de la valeur et de la dignité individuelles de chaque être humain.

Selon le *Code* des droits de la personne, traiter quelqu'un différemment, à son désavantage et sans raison valable, ou omettre de prendre des mesures pour répondre aux besoins spéciaux basés sur des caractéristiques protégées par le Code constitue de la discrimination. Le *Code des droits de la personne* du Manitoba interdit la discrimination injustifiée dans les domaines comme l'emploi, le logement, les services publics et les contrats, et sur les affiches et les avis.

Faits saillants de 2012

Les modifications apportées au *Code* des droits de la personne ont pris effet le **14 juin 2012**. Les plus importantes sont l'ajout de deux caractéristiques protégées, qui sont l'« identité sexuelle » et les « désavantages sociaux ».

Le 25e anniversaire du *Code des droits de la personne* a été célébré à l'Assemblée législative du Manitoba le 31 mai 2012.

La Commission des droits de la personne du Manitoba comptait parmi les 17 intervenants dans l'arrêt de la Cour suprême du Canada *Moore c. Colombie-Britannique (Éducation)* mettant en cause le district scolaire no 44 (North Vancouver). L'appel, entendu le 22 mars 2012, visait à déterminer si le district scolaire de North Vancouver et le ministère de l'Éducation de la Colombie-Britannique avaient exercé de la discrimination à l'égard de Jeffrey Moore, atteint d'une dyslexie sévère, en omettant de lui offrir un accès suffisant à des études convenables. Le 9 novembre 2012, la Cour a jugé, dans une décision unanime, que le district scolaire de North Vancouver avait fait preuve de discrimination à l'endroit de Jeffrey Moore.

Le rapport final du projet Collectivités racialisées et services de police a été présenté aux dirigeants communautaires et au chef de police de Winnipeg, Devon Clunis. Il a fait l'objet d'une table ronde finale tenue au bureau de la Commission. C'est un projet qui a vu le jour en 2005, lorsque le comité de surveillance du quartier Centennial à Winnipeg a confié à la Commission des droits de la personne du Manitoba qu'il s'inquiétait de la présence possible de préjugés raciaux (fondés sur l'ascendance autochtone) dans les services de police de son quartier. Le rapport final figure dans le site Web de la Commission.

Avec l'appui des membres de l'Association canadienne des commissions et conseil des droits de la personne, la Commission des droits de la personne du Manitoba a demandé à tous les niveaux de gouvernement du Canada de mettre en application la Déclaration sur les droits des peuples autochtones des Nations Unies.

À la conférence « Y sommes-nous? » de 2012 de l'Association canadienne des commissions et conseil des droits de la personne qui a eu lieu à Winnipeg en 2012, M. Stuart Murray, président

et directeur général du Musée canadien des droits de la personne, et Mme Barbara Hall, présidente de l'Association, ont signé un protocole d'entente engageant les deux organismes à unir leurs efforts pour faire avancer leurs objectifs communs consistant à encourager et à favoriser l'avancement, la promotion et la compréhension des droits de la personne.

La Commission a poursuivi ses démarches visant les jeunes, sauf qu'en 2012, elle a ciblé les élèves des années intermédiaires plutôt que ceux du palier secondaire. Depuis douze ans, la Commission n'a pas ménagé ses efforts pour atteindre les jeunes et leur fournir de l'information sur les droits et responsabilités au moyen de conférences, de sites Web, de documents écrits et de vidéos s'adressant directement à eux.

TRAITEMENT DES PLAINTES – VUE D'ENSEMBLE

Dépôt – En 2012, plus de 4 400 demandes de renseignements ont été traitées par le personnel responsable de l'accueil. De nombreux appels ont été renvoyés à d'autres organismes. Dans environ 8 % des cas, le sujet était directement relié au Code, et il y avait aussi 19 % des appels qui visaient à obtenir de la documentation ou de l'information sur les droits de la personne. Au total, 358 nouveaux dossiers ont été ouverts.

Avant le dépôt d'une plainte – Avant qu'une plainte officielle soit déposée, le personnel responsable de l'accueil peut recommander une médiation, qui est un processus volontaire mené sous réserve de tous droits. Les médiateurs de la Commission tentent de régler les problèmes avant le dépôt d'une plainte en bonne et due forme pour discrimination. En 2012, 26 affaires ont été réglées de cette façon.

Médiation – Si une plainte officielle est déposée, les plaignants sont informés que la Commission offre aux parties la possibilité de recourir à une médiation, avant ou pendant l'enquête. Il est à noter que, pendant la médiation, aucune évaluation de la plainte n'est effectuée et aucune décision n'est prise à son sujet. Parfois, un arrangement à l'amiable peut, du point de vue du plaignant, être plus profitable qu'une audience publique. Le plus souvent, cette façon de procéder donne des résultats plus satisfaisants également pour les plaignants.

Enquête – Chaque plainte non résolue au cours du processus de médiation est assignée à l'équipe d'enquête, composée de sept personnes. En 2012, la durée moyenne d'une enquête (de la date où elle a été attribuée à un enquêteur jusqu'à la date où le rapport d'enquête ou le rapport préliminaire a été rédigé) a été de 8,65 mois.

Plaintes rejetées – En 2012, 81 des 258 plaintes traitées ont été rejetées par le conseil.

Médiation du conseil – Durant l'année, 31 dossiers ont fait l'objet d'une médiation du conseil et 23 dossiers ont été réglés de plein gré à ce stade.

Arbitrage – En 2012, 12 dossiers ont été soumis à l'arbitrage.

Règlement avant l'arbitrage – En 2012, quatre dossiers ayant été envoyés en arbitrage ont été réglés par les avocats avant l'audience prévue.

Actions en justice – En 2012, 5 décisions ont été rendues. Il y a eu deux autres audiences, mais la décision dans chaque cas n'a pas encore été communiquée.

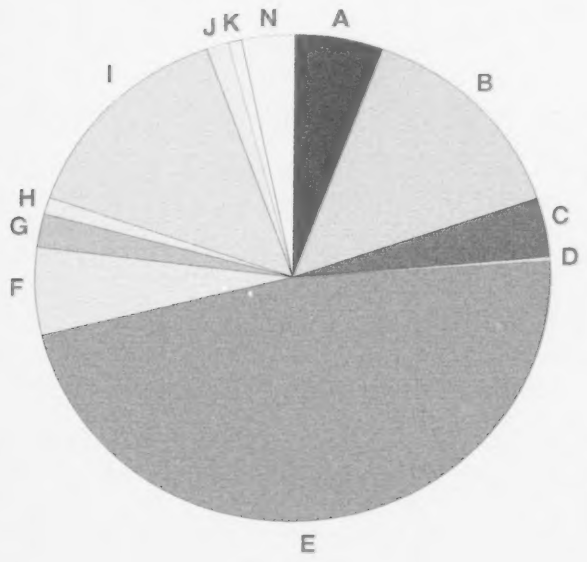
Connaissance des droits de la personne et des responsabilités en la matière
Plus de 285 personnes, notamment des employeurs, des superviseurs et des spécialistes des ressources humaines, ont assisté aux séminaires et ateliers présentés par la Commission en 2012.

La Commission a continué d'accroître ses activités communautaires et a fait des présentations publiques devant près de 2 675 personnes.

Pour souligner le 25e anniversaire du *Code des droits de la personne*, la Commission a publié son *Rapport à la collectivité* le 10 décembre 2012, soit la date anniversaire de promulgation du Code au Manitoba en 1987.

STATISTICS

Formal Complaints Registered in 2012 - By Grounds



- A Age (14)
- B Ancestry (34)
- C National Origin (9)
- D Ethnic Origin (1)
- E Disability (114)
- F Marital/Family Status (14)
- G Political Belief (5)
- H Religion (3)
- I Sex (incl. Pregnancy) (34)
- J Gender Det. Characteristics (3)
- K Sexual Orientation (2)
- L Social Disadvantage (0)
- M Source of Income (0)
- N Other (8)

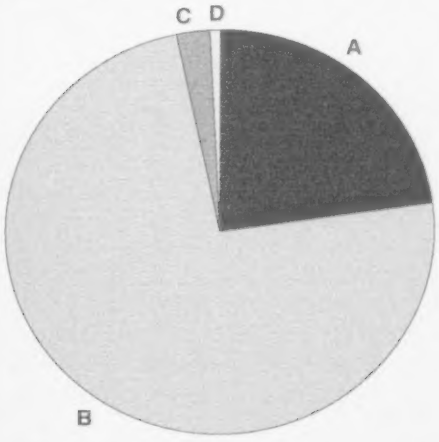
Total Complaints Registered = 241

Files Closed by Grounds up to December 31, 2012

Area	Pre-complaint Resolution	Pre-Board Settlements	Withdrawn / Abandoned	Dismissed by Board	Terminated Other / Offer Found Reasonable	Settled By Board Directed Mediation	Referred to Adjudication	Settled Prior to Adjudication
Age	0	4	0	6	0	0	0	1
Ancestry	3	4	8	18	0	0	0	0
National Origin	0	0	0	4	0	0	1	0
Ethnic Origin	0	0	0	1	0	0	0	0
Disability	15	43	23	30	0	15	1	2
Marital/Family	2	3	4	3	0	1	0	0
Political Belief	0	0	0	2	0	0	0	0
Religion	1	1	0	2	0	3	0	0
Sex (including Pregnancy)	3	13	6	11	0	4	10	1
Gender Identity	0	0	0	0	0	0	0	0
Sexual Orientation	0	0	0	0	0	0	0	0
Social Disadvantage	0	0	0	0	0	0	0	0
Source of Income	0	0	0	1	0	0	0	0
Other	2	1	2	3	0	0	0	0
TOTALS	**26**	**69**	**43**	**81**	**0**	**23**	**12**	**4**

Total Complaints by Grounds December 31, 2012 258

Formal Complaints Registered in 2012 - By Area



A Services (55)
B Employment (178)
C Housing (6)
D Contracts (2)

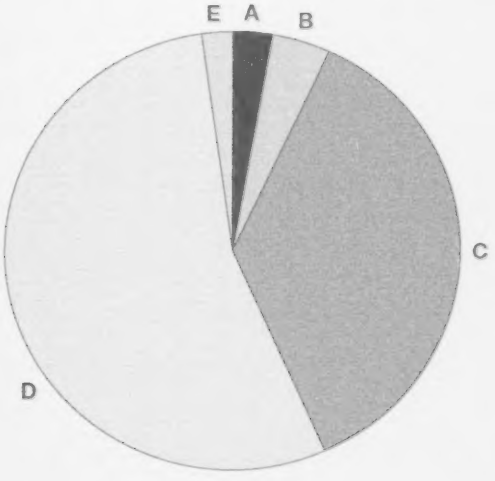
Total Complaints Registered = 241

Files Closed by Area up to December 31, 2012

Area	Pre-complaint Resolution	Pre-Board Settlements	Withdrawn / Abandoned	Dismissed by Board	Terminated Other / Offer Found Reasonable	Settled By Board Directed Mediation	Referred to Adjudication	Settled Prior to Adjudication
Services	7	10	7	24	0	1	1	0
Employment	15	57	34	52	0	22	11	4
Contracts	0	0	0	0	0	0	0	0
Housing	4	2	2	5	0	0	0	0
Other	0	0	0	0	0	0	0	0
TOTALS	**26**	**69**	**43**	**81**	**0**	**23**	**12**	**4**

Total Complaints by Area December 31, 2012 258

Formal Complaints Registered in 2012 - By Nature of Allegations



A Sexual Harassment (7)
B Other Harassment (10)
C Reasonable Accommodation (88)
D Differential Treatment (131)
E Reprisal (5)

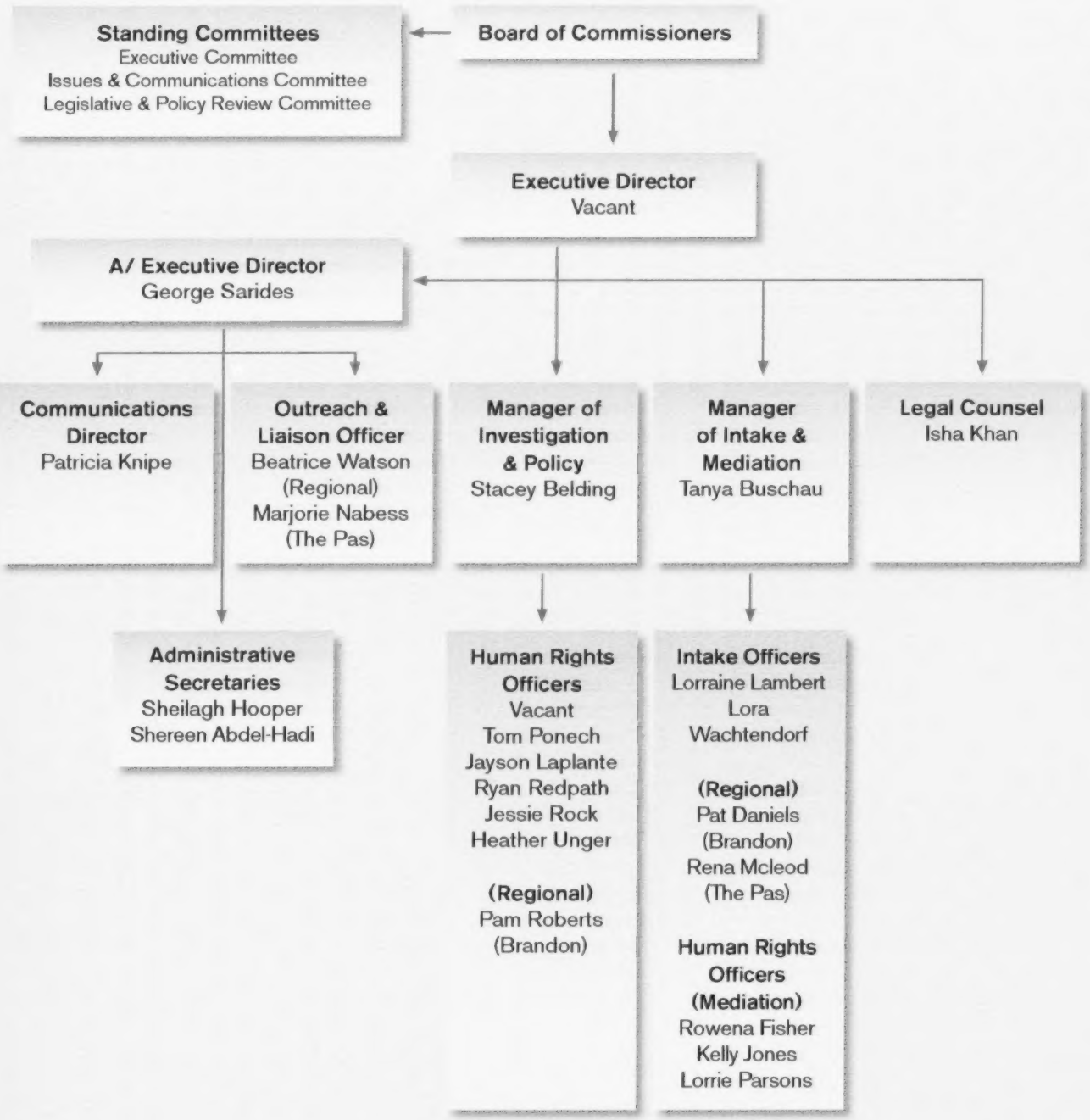
Total Complaints Registered = 241

Files Closed by Nature of Allegation December 31, 2012

Nature of Allegation	Number of Complaints
Sexual Harassment	15
Other Harassment	12
Reasonable Accommodation	92
Differential Treatment	133
Reprisal	6

Total Complaints by Nature of Allegation = 258

MANITOBA HUMAN RIGHTS COMMISSION
ORGANIZATION CHART • 2012



THE MANITOBA HUMAN RIGHTS COMMISSION

LA COMMISSION DES DROITS DE LA PERSONNE DU MANITOBA

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